

Dear Senator Fonfara, Representative Horn, and the other members of the committee

Thank you for allowing me to express my opposition to SB 814 which calls for those in the field of preparing a tax return to be responsible for any interest, penalties and payment of the tax that would have been due if the return had been prepared properly, but was not, due to preparer error. It seems that this may be more consumers driven than anything else. Background for the bill would have been helpful.

My name is Morris Armstrong, and I am the owner of Morris Armstrong EA LLC which is a firm in Cheshire Ct, that prepares tax returns and assists taxpayers who need representation with issues before the Internal Revenue Service, or in Connecticut, the Department of Revenue Services.

An EA is an enrolled agent which is someone licensed by the United States Treasury to represent people who have claims before the Treasury. The license was created under the Horse Act of 1884, long before the IRS but when the Treasury was inundated by claims from persons seeking restitution from the Civil War. The Treasury created strong standards for one to become an enrolled agent and we are bound by Circular 230. We can face suspension and disbarment for unethical and illegal behavior.

The EA license allows us to represent clients post tax preparation, but many enrolled agents are also tax preparers. It is my understanding that Connecticut does require those who prepare taxes to register with the state, however enrolled agents are exempt from this requirement because of their stature and federal licensing,

In addition to having my own business, I have served on the Government Relations Committee of the National Association of Enrolled Agents and am currently Vice President and Treasurer of the Connecticut chapter. However, the views expressed today are my own, and not to be taken as coming from any organization. Furthermore, I am quoted in a fair number of professional publications so there are some who think I know what I am speaking about.

It is safe to say that most reputable firms who make a mistake will prepare an amended return at no additional cost and will cover the penalty. However, the idea of the "additional tax" is confusing. Assuming that return is prepared with all of the correct information, there will be a tax liability determined. From that liability you subtract credits and other payments, and the result will be either a zero, a refund or a balance due.

If there were a distribution on a form 1099R that was for \$10,000 showing \$1,000 tax withheld, and the preparer entered \$1,000 as the distribution, and \$1,000 as tax withheld, that return would show less liability than it should. Effectively, \$9,000 of income is not being reported. However, the taxpayer upon examination and signing the return, under penalties of perjury, could easily have noticed the error and a correction could have been made. Absent that, down the road, the taxpayer can expect a notice from the IRS pointing out the discrepancy and

assessing the correct amount of tax. In this case, one could expect the firm to prepare an amended return, address the penalty and interest, but why pay the additional tax? It is an amount that the taxpayer should have paid to begin with. Furthermore, the taxpayer was negligent in their review of the return and did sign under penalties of perjury that the return was true and correct. The exact jurat on the 2022 Form 1040 reads " Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge." Those are powerful words indeed, our state may even use them as well!

The law is stating that the taxpayer is responsible for the accuracy of the return. However, no one is perfect, and the law allows for the submission of an amended return to correct most errors. After all, who hasn't forgotten to add that interest income or forgotten to include mortgage interest, or some other common mistake.

In the legislation how would you assign blame? You are already ignoring the jurat on the 1040, as if the threat of perjury is not enough to make someone double check the return. If I were to ask Mr. Taxpayer, have you given me all of your income, from all sources and given me a complete listing of all deductions, and an accurate tally of any money that you have paid to the IRS and any money that you have received from the IRS, would that be a safe-harbor method to assign responsibility to the taxpayer?

I also know that 2021 was a challenging year for many with the expanded tax credits and reconciliation issues. Fortunately, my firm was not impacted but I have read and heard of many instances where a taxpayer claimed to have received x amount of child tax credit and the Treasury later asserted that it was X+500, which would result in the taxpayer having to make a payment to the IRS. Who was at fault? The preparer or taxpayer? The only mistake the preparer made was accepting the word of the taxpayer.

As a professional, we are taught to require each client to sign an engagement letter, which outlines what we do and are responsible for, as well as what the taxpayer is responsible for. We also use organizers which can range from a few pages to many, and request that the client fill them out completely. That is not always done. We do require copies of all documents that the IRS will receive copy of, think of W2s and 1099s as documents that the IRS will receive. We stamp each document that we receive and scan them to file. We try to account for each document that we touch.

The bill, as written leaves much open for discussion as to the responsibilities of the taxpayer in

- 1) Submitting accurate information
- 2) Reviewing the tax return
- 3) Signing under penalty of perjury

Many professionals do carry errors and omission coverage which would address the penalties and interest, but not the additional tax, because the correct amount of tax was there to begin with.

Many professionals value their reputation and will collaborate with a client to resolve issues. Sometimes, blame is very grey, not black, and white.

Of course, there are people who prepare taxes with no training, use a consumer version of software illegally and do not put their name on the return – unless their name is “self-prepared”. By the way, I believe it is a violation of federal law to charge someone to prepare a return for money and not sign it. These people may not have the proper training and may make mistakes which result in an understatement of liability. Senator Miller, you may be alluding to that when you say “additional tax”. Then there are the skilled people who guarantee you large refunds, maximum Earned Income Tax Credits but decide that you have a small schedule C business, which you do not, and that return will either generate enough for the maximum EITC or generate a loss that will eliminate much of your wage income. The only problem is that the taxpayer never had a business, and the return is fraudulent. When caught, these taxpayers are in deep financial trouble.

The question still begs to be answered, are you going after the professional tax preparers and giving the taxpayer a free pass on reviewing the return, are you going after the ghost preparers or are you going after the refund mills which do tremendous damage to the public?

I was trying to explain this bill to a child and the analogy that came to mind is when you are dining out. After the meal, when presented with the bill, you notice that the server left off the 4 orders of dessert. You can pay the bill and skip out, or you can tell the server and have them correct the bill. You enjoyed the meal. You do not want the server to be on the hook for the dessert, do you? You enjoyed your income, pay the proper amount of tax.

Respectfully,

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